



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

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April 30, 2009

TECHNICAL STAFF REPORT

*Petition Accepted on August 29, 2008
Planning Board Meeting of May 28, 2009
Zoning Board Hearing to be scheduled*

Case No./Petitioner: ZB 1078M -- Gorman Crossing, LLC

Location: Sixth Election District
North side of Gorman Road approximately 100 feet west of Horsham Drive
Tax Map 47, Grid 16, Parcels 492 and 743; 9320 Gorman Road
(the "Property")

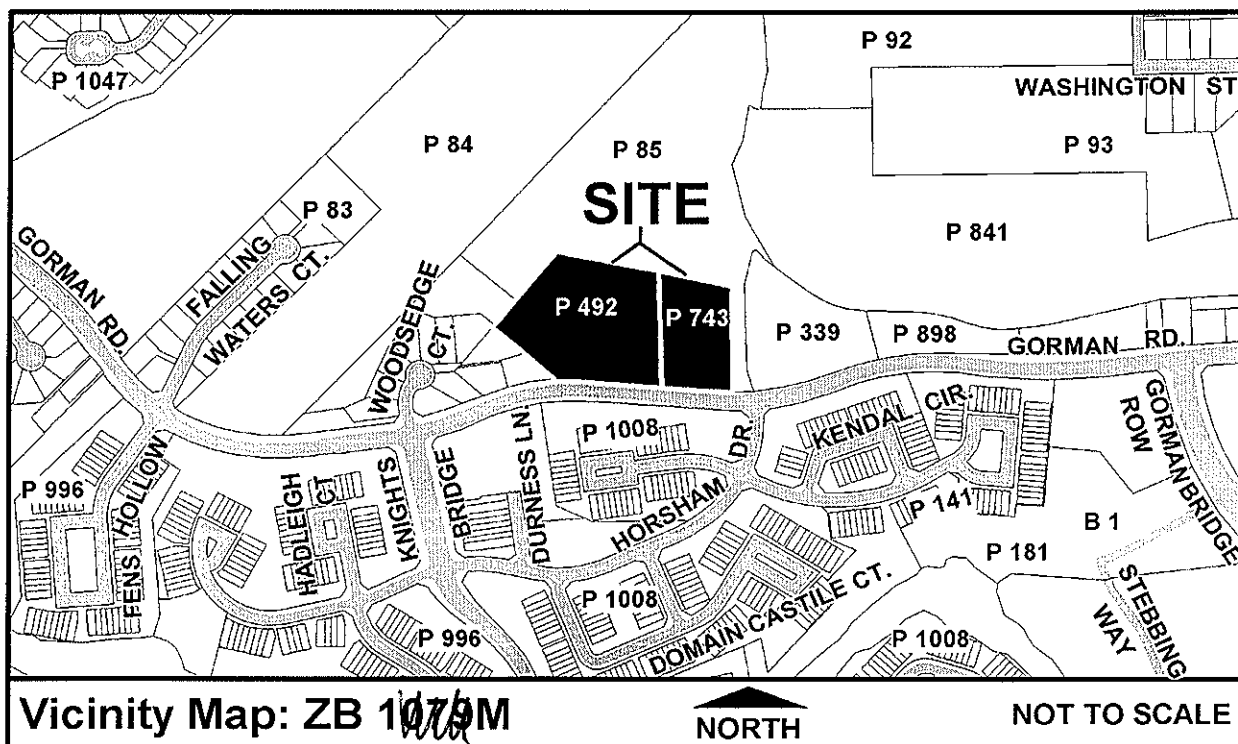
Area of Site: 7.51 acres

Current Zoning: PSC, with Preliminary Development Plan for an Age-restricted Adult Housing Development.

Proposed Zoning: R-SA-8

Department of Planning and Zoning Recommendation:

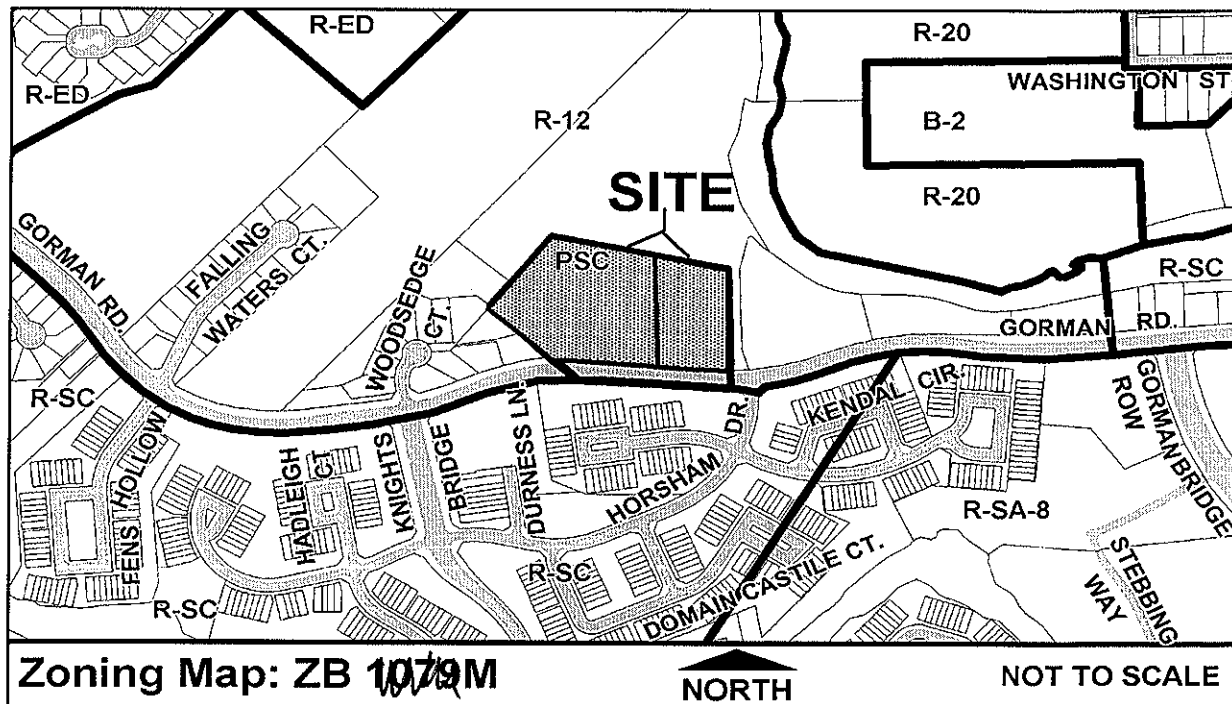
APPROVAL



I. DESCRIPTION OF PROPOSAL

- The Property was the site of the former Ev-Mar Mobile Home Park which in May, 2006, was rezoned in Zoning Board Case No. ZB 1062M from the R-MH (Residential: Mobile Home) District to the PSC (Planned Senior Community) District, with a Preliminary Development Plan for an Age-restricted Adult Housing apartment and single-family attached development. The Petitioner proposes a Zoning Map Amendment to rezone the Property from the current PSC District designation to the R-SA-8 (Residential: Single Attached) District.
- The Petitioner contends that because the PSC District is a floating zone that does not require an evaluation on the issues of substantial change in the character of the neighborhood ("Change") and mistake in zoning ("Mistake"), the evaluations of Change and Mistake for this petition should be largely based upon the R-MH District zoning of the Property prior to ZB 1062M, although the Petitioner states that Change and Mistake can also be related to the current PSC District zoning.
- Two principal points are expressed by the Petitioner as justification for an allegation of Mistake. The first concerns the rezoning of the Property to the R-MH District in the 2004 Comprehensive Zoning Plan (the "2004 CZP").

As background, the Petitioner explains that in the 2004 CZP, the owners of the Property at that time requested a rezoning to R-SA-8, and that the R-SA-8 District request was supported by the Department of Planning and Zoning.

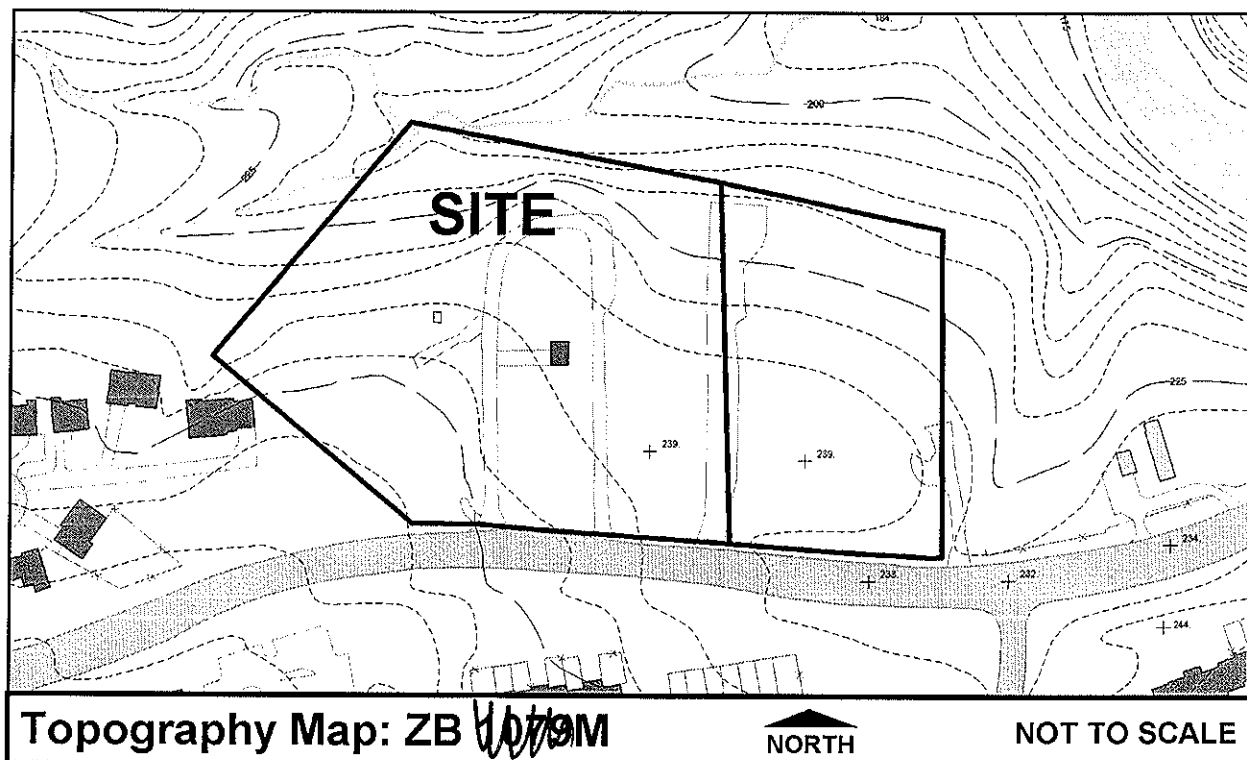


I. DESCRIPTION OF PROPOSAL

However, the Planning Board did not support the R-SA-8 District request and instead recommended R-MH for the entire Property [the Property at that time was split-zoned with part in the R-MH District and part in the R-12 District.] The final result of the 2004 CZP was the entire Property zoned as R-MH.

- **The Petitioner states that to zone the Property as R-MH was a mistake because the R-MH regulations require a minimum district size of 10 acres and the area of the Property is lower than 10 acres.**
- **In alleging Mistake in relation to the current PSC District zoning, the Petitioner maintains that the PSC District "...is essentially a need-based district..." and that when the Property was rezoned to PSC, it was done with "...a general assumption that there was a need or market..." for age-restricted housing.**

The Petitioner expresses that this assumption has proven to be invalid over time. This statement assumes a general understanding that the current market for age-restricted housing is overbuilt, which is generally accepted to be true, but no actual evidence is provided by the Petitioner in support of this position.



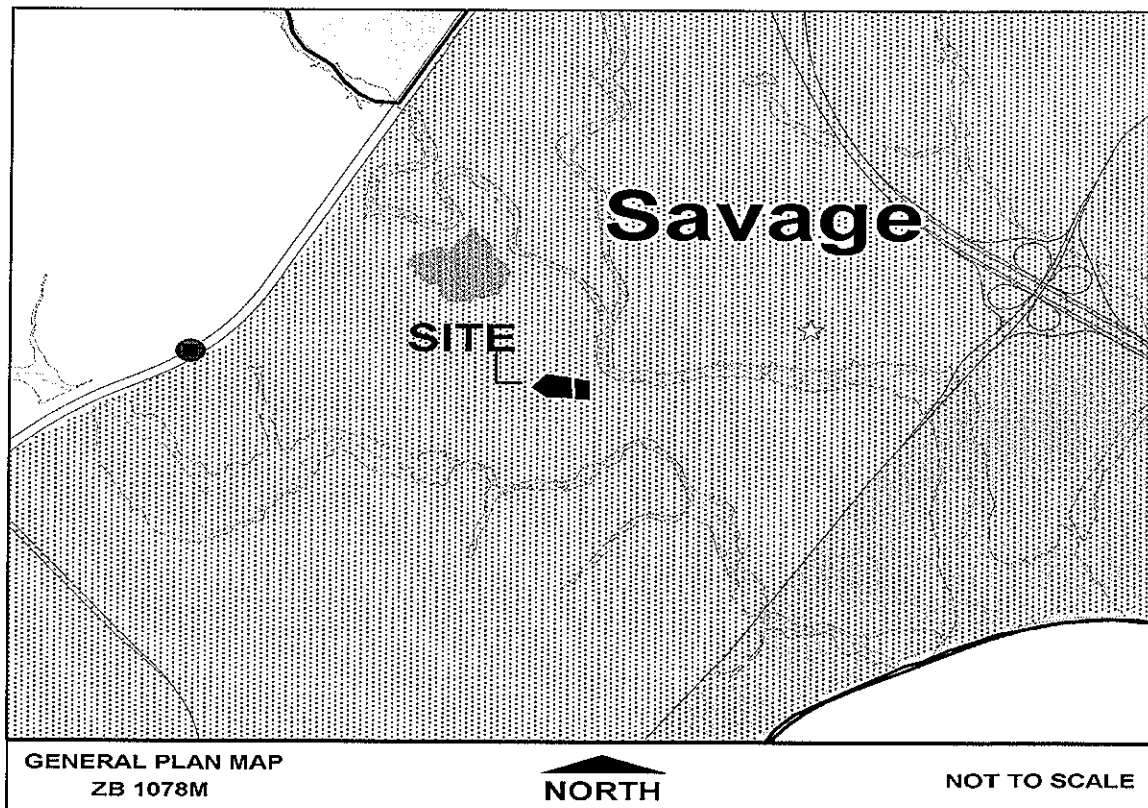
I. DESCRIPTION OF PROPOSAL

- **The fundamental justification given for the allegation of Change by the Petitioner is that there is a current need for workforce housing in response to BRAC (the Base Realignment and Closure process related to the planned large expansion to Fort George G. Meade in Anne Arundel County), and there is no current need for age-restricted housing or mobile homes.**

The Petitioner states that this "...has created a change in the overall area and its needs, including the immediate neighborhood...". Maps depicting the Petitioner's concepts for an "immediate neighborhood" and an "overall area" are provided as attachments to the petition. The boundaries of the neighborhood as defined by the Department of Planning and Zoning are depicted on the map on Page 5.

- **The Petitioner also maintains that the Property cannot be developed with the former R-MH zoning or the current PSC District zoning.**

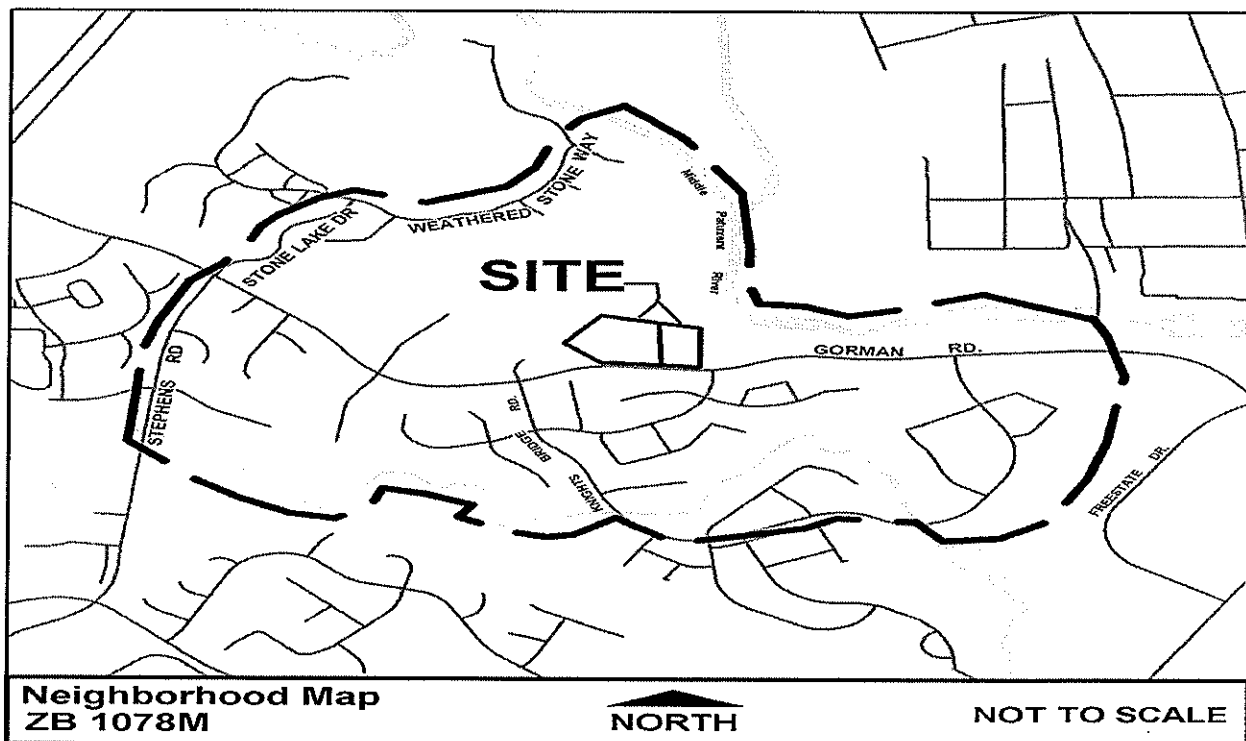
The Petitioner states that because the Property is below the required 10 acre district size, it cannot be developed if zoned R-MH. Regarding the PSC District, the Petitioner states that the relatively small, 7.51 acre size of the Property makes it difficult to develop in a manner to meet the PSC District requirement for a minimum 50 dwelling units, for various stated reasons.



II. ZONING HISTORY

A. Subject Property

- The Property was zoned R (Rural) by the 1954 Comprehensive Zoning Plan. On April 26, 1955, the Parcel 492 portion of the Property was meant to have been rezoned to T-2 (Tourist Accommodations 2) in Zoning Board Case No. 124, but apparently in error, this T-2 zoning was mapped as being on the Parcel 743 portion.
- With the 1961 Comprehensive Zoning Plan, the Parcel 743 portion of the Property continued to be shown as being zoned T-2, and the Parcel 492 portion was zoned R-20. However, apparently in recognition of the longstanding mapping error, the 1977 Comprehensive Zoning Plan revised this by zoning Parcel 743 as R-12 and Parcel 492 as R-MH. This R-12/R-MH zoning for the Property was retained by the 1985 and 1993 Comprehensive Zoning Plans.
- In the 2004 Comprehensive Zoning Plan, the Property was Amendment No. 47.02, which was an original proposal to rezone to R-SA-8, but had a Planning Board recommendation to become entirely R-MH, and the County Council did approve the entire Property as R-MH.
- As described above, the Property was rezoned from R-MH to PSC with the approval of ZB 1062M in May, 2006.



II. ZONING HISTORY

A. Subject Property

There were two potential Age-restrict Adult Housing Preliminary Development Plans given authorization; a 12-unit-per-acre development with 87 dwelling units consisting of 75 apartments and 12 single-family attached dwellings, and an 8-unit-per-acre development with 58 dwelling units consisting of 46 apartments and 12 single-family attached dwellings.

B. Adjacent Properties

- The properties to the north and east were zoned R-20 with the 1961 Comprehensive Zoning Plan, became zoned R-12 with the 1977 Comprehensive Zoning Plan, and have retained that zoning to date.
- The properties to the south and southeast were zoned R-20 with the 1961 Comprehensive Zoning Plan, became zoned R-SC with the 1977 Comprehensive Zoning Plan, and have predominantly retained that zoning to date, except that to the southeast the land was rezoned to R-SA-8 with the 1985 Comprehensive Zoning Plan.
- The properties to the west were zoned R-20 with the 1961 Comprehensive Zoning Plan, became zoned R-12 with the 1977 Comprehensive Zoning Plan, and have retained that zoning to date.

III. BACKGROUND INFORMATION

A. Site Description

- The Property is an irregularly-shaped site comprised of two parcels; Parcel 492 which is the larger, western area of the Property, and Parcel 743 in the eastern area.
- The Property was the site of the former Ev-Mar Mobile Home Park, which had an approved total mobile home capacity of approximately 46 mobile home dwellings. The mobile home park use was principally located on the Parcel 492 portion of the Property, while there were just a few dwelling sites on the rear of Parcel 743.
- There are no existing mobile homes on the Property. The existing site has three principal paved driveways running perpendicular from Gorman Road to the northern rear of the Property. Adjacent to these three driveways are paved, gravel, and lawn surfaces, and foundations which had been mobile home sites.

The greatest concentration of these former mobile home sites is in the area between the western and eastern-most driveways. There is one vacant block building roughly centered on the site, a few small accessory buildings, and several standing panels that had been used for electric meters.

III. BACKGROUND INFORMATION

A. Site Description

- There are trees throughout the Property but the largest wooded areas are at the west and northwest, and much of the front of Parcel 743. The front of the Property is generally level, but the topography slopes down gradually to the north. The lowest point on the Property is at the northwest corner, at a stream.

B. Vicinal Properties

- Parcel 85 to the northwest, north, and for a narrow area to the east is a wooded area of Savage Park that is owned by the Department of Recreation and Parks. Further to the northeast is the Middle Branch of the Patuxent River. Beyond the narrow portion of Parcel 85 to the east is Parcel 339, which is a residential property improved with a two-story, frame, single-family detached dwelling.
- To the south of the Property, across Gorman Road, is the Bowling Brook Farms development of single-family attached dwelling units. There is a reasonably wide, partially wooded open space lot between the Gorman Road frontage and the attached dwellings on Sombersby Court. To the southwest of the Property across Gorman Road is the Savage Library and adjacent senior center.
- Adjoining the southwest side of the Property is the three-lot Burley's Addition to Gorman Woods subdivision. Lot 2 is improved with a two-story, frame, single-family detached dwelling, and Lots 1 and 3, which adjoin Gorman Road but have pipestem driveway access to Woodsedge Court to the west, are currently unimproved.

C. Roads

- Gorman Road has two travel lanes and a variable paving width within a proposed 80 wide right-of-way. The posted speed limit is 30 miles per hour.
- On Exhibit C of the petition for the previous ZB 1062M case, the Sight Distance Analysis showed that the sight distances from the location of the proposed driveway entrance, approximately centered on the road frontage, were 532.5 feet to the east and 361.5 feet to the west.
- According to data from the Department of Public Works, the traffic volume on Gorman Road east of Stephens Road was 6,131 ADT (average daily trips) as of 2007.

III. BACKGROUND INFORMATION

D. Water and Sewer Service

- The Property is in the Metropolitan District and is within the Existing Service Area according to the Geographic Information System Maps.

A development on the Property would be served by public water and sewer.

E. General Plan

- The Property is designated Residential Areas and Redevelopment Corridors on the Policies Map 2000-2020 of the 2000 General Plan.
- Gorman Road is depicted as a Major Collector and Capacity Improvements on the Transportation Map 2000-2020 of the 2000 General Plan.

F. Agency Comments

- The following agencies had no objections to the proposal:
 1. Department of Recreation & Parks
 2. Department of Fire and Rescue Services
 3. Department of Inspections, Licenses and Permits

G. Adequate Public Facilities Ordinance

- The petition is subject to the Adequate Public Facilities Ordinance. Any Site Development Plan for a residential development on the Property, if it were rezoned to R-SA-8, would subject to the requirement to pass the test for adequate road facilities and adequate school facilities.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of the Petition Concerning the Change Rule

- The Department of Planning and Zoning finds that the area of the "immediate neighborhood" as proposed by the Petitioner is excessively large for such a relatively small site.

For example, the Property really does not have any direct relation to the properties in Savage to the northeast, which are well separated from the Property by a wide area of wooded parkland and the river. Also, the Property is far from the commercial uses adjoining US 1 and Freestate Drive.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of the Petition Concerning the Change Rule

The largest adjacent areas that do have a direct relation to the Property are the predominantly single-family attached R-SC and R-SA-8 developments to the south and southwest across Gorman Road, and the apartments R-SA-8 development to the southeast, also across Gorman Road. So in part, the southern boundary proposed by the Petitioner is somewhat appropriate, but the northern and eastern boundaries are not appropriate.

- **As described in the Zoning History on the adjacent properties, the R-12 area and large R-SC area in the neighborhood have existed since the 1977 Comprehensive Zoning Plan, and the large R-SA-8 area has existed since the 1985 Comprehensive Zoning Plan.**

These areas developed according to the established zoning, and the neighborhood has been a very stable, predominantly moderate-density residential community since well before the 2004 CZP.

- **The allusion to BRAC by the Petitioner to justify the allegation of Change by BRAC causing an effect on "...the overall area and its needs..." is somewhat speculative at this time, because although construction on BRAC related improvements and buildings is underway, the estimated occupancy for the new facilities is not until 2011, according to the most recent news from Fort George G. Meade.**
- **There has been no substantial change in the character of the neighborhood since the 2004 Comprehensive Zoning Plan was approved.**

B. Evaluation of the Petition Concerning the Mistake Rule

- **The Department of Planning and Zoning disagrees with the Petitioner's contention that it is valid to evaluate Mistake based upon the R-MH zoning of the Property prior to the piecemeal rezoning to PSC in ZB 1062M.**

The Petitioner is proposing to have the Property rezoned from PSC to R-SA-8, and not from R-MH to R-SA-8. Even though the change from R-MH was a floating zone case, the Property is zoned PSC now with no provisions for a "reversion" back to R-MH, so the zoning of the Property prior to ZB 1062M is immaterial, except as background information.

- **The Department of Planning and Zoning concurs with the Petitioner that the ZB 1062M PSC zoning of the Property may be considered a mistake on the basis of "...the assumptions relied upon by the Zoning Board at the time have been, by the passage of time, shown to be invalid."**

IV. EVALUATIONS AND CONCLUSIONS

B. Evaluation of the Petition Concerning the Mistake Rule

Twice in the Decision and Order for ZB 1062M, it is stated that the petition for the PSC District and the Age-restricted Adult Housing development is consistent with Policy 4.3 of the General Plan, which is to "...ensure an adequate housing supply for the elderly, disabled and special populations." The word "adequate" in this context implies an "acceptable amount" of housing, so it may be inferred that the Zoning Board assumed at that time that the number of new dwelling units proposed in ZB 1062M would be constructed and would become part of an acceptable overall total of Age-restricted Adult Housing dwelling units.

- However, in the relatively short period of time between the approval of ZB 1062M and now, the current market for Age-restricted Adult Housing dwelling units in Howard County is generally considered to be extremely low, due in part to a perceived overabundance of such units and the related lack of available financing for new projects. So the assumption of the Zoning Board that the Age-restricted Adult Housing dwelling units proposed in ZB 1062M would be necessary to achieve a suitable total of such units is apparently no longer correct, because that suitable total perhaps is already achieved.
- This issue of a possible overabundance of Age-restricted Adult Housing units was mentioned in the evaluation of the recently approved ZRA-103, which amended the PSC District regulations to allow new PSC Districts to function as an overlay zone, so that a property may still be developed using the underlying zoning. The ZRA-103 provision does not help in the case of the Property, however, because this particular PSC District was approved prior to ZRA-103.

C. Relation to the General Plan

- The petition for a rezoning to R-SA-8 implies a residential redevelopment of the Property, and therefore, the petition is in harmony with the Residential Areas and Redevelopment Corridors land use designations for the vicinity of the Property.
- Similarly to the PSC District, the proposed R-SA-8 District would require a minimum of 10 percent of the dwelling units to be Moderate Income Dwelling Units (MIHU). In this manner, the petition is in harmony with General Plan Policy 4.2 to provide affordable housing.

D. Appropriateness of Zoning District

- In consideration of the largely single-family attached character of the vicinity and the developed R-SC and R-SA-8 areas, a proposal to rezone the Property to R-SA-8 is not unreasonable. R-SC, with a much lower maximum density of four dwelling units per acre, is less likely to be practical for the relatively small Property. The eight dwelling units per acre in R-SA-8 is more realistic, is not dissimilar from the density approved for the PSC development, and does provide the 10 percent MIHU.

CASE NO.: ZB 1078M
PETITIONER: Gorman Crossing, LLC

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V. RECOMMENDATION *APPROVAL*

For the reasons noted above, the Department of Planning and Zoning recommends that the request to rezone the Property from PSC to R-SA-8, be **APPROVED**.

 5/1/09
Marsha S. McLaughlin, Director Date

MM/JRL/jrl

NOTE: **The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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FAX 410-313-3467

TDD 410-313-2323

May 1, 2009

Katherine L. Taylor, Esquire
5850 Waterloo Road, Suite 140
Columbia, MD 21045

Dear Ms. Taylor:

RE: ZB Case No. 1078M
Gorman Crossing, LLC

Please be advised that the case referenced above has been scheduled for review by the Planning Board of Howard County on **May 28, 2008**. The Planning Board will meet at **7:00 p.m.** in the Ellicott Room, at **8930 Stanford Boulevard, Columbia**,

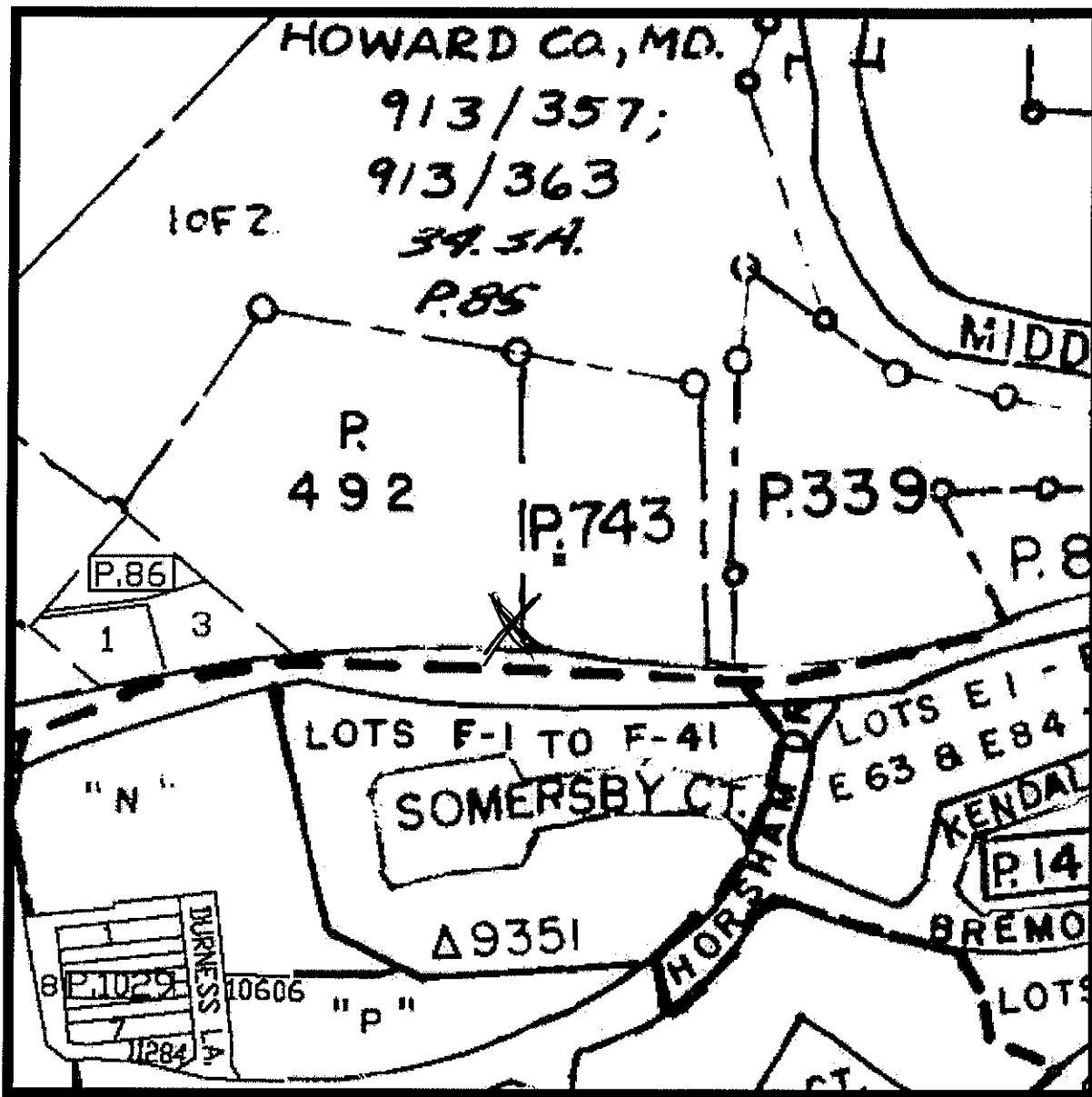
To ensure proper public notice, you must obtain from this Division, poster(s) that must be erected on the property by **May 11, 2008** and must remain posted until fifteen (15) days after.

This office will inform you of the scheduled hearing date before the Zoning Board upon notification from the Chairperson for the Zoning Board. Should you have any questions regarding the above, please contact this Division at 410-313-2350 at your convenience.

Very truly yours,

George L. Beisser, Chief
Division of Public Service and Zoning
Administration

GLB:hg
cc: Office of Law



**Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments**

Date: 10/08/08

Hearing Examiner _____
Planning Board TBS Board of Appeals _____ Zoning Board _____
Petition No. ZB 1078M Map No. 47 Block 16 Parcels 492, 743 Lot _____
Return Comments by 10/31/08 to Public Service and Zoning Administration
Address of Property: 9320 Gorman Road
Applicant: Gorman Crossing, LLC
Applicant's Address: 7017 Meandering Stream Way, Fulton, MD 20759
Owner: (if other than applicant) see app
Owner's Address: see app
Petition: See application

To: _____ Department of Education
_____ Bureau of Environmental Health
_____ Development Engineering Division
_____ Department of Inspections, Licenses and Permits
_____ Department of Recreation and Parks
_____ Department of Fire and Rescue Services
_____ State Highway Administration
_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
_____ MD Dept. of Human Resources, Janice Burris
_____ (Child Day Care)
_____ Office on Aging, Terri Hansen (senior assisted living)
_____ Police Dept., Animal Control, Deborah Baracco, (kennels)
_____ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
_____ Land Development - (Religious Facility & Age-Restricted
_____ Adult Housing)
_____ Housing and Community Development
_____ Economic Development

COMMENTS:
